

Application No.: 09/852070

Docket No.: SMQ-122RCE/P6281

REMARKS

Applicants amend claim 9. No new matter is added. Upon entry of this statement, claims 1-32 are pending, of which claims 1, 9, 17, and 25 are independent. Applicants respectfully submit that the pending claims define over the art of record.

Rejection of Claims 1-3, 5, 7-11, 13, 15-19, 21, 23-27, 29, 31, and 32

Claims 1-3, 5, 7-11, 13, 15-19, 21, 23-27, 29, 31, and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,442,754 to Curtis (hereafter "Curtis") in view of United States Patent No. 6,199,204 to Donohue (hereafter "Donohue"). Applicants respectfully submit that the combination of the Curtis reference and the Donohue reference do not teach or suggest each and every element and limitation of independent claims 1, 9, 17, and 25. Specifically, the combination of the Curtis reference and the Donohue reference do not teach or suggest the limitation of generating a script program including at least one *patch attribute statement*, wherein an attribute *defined* for the attribute statement is associated with the installation of the patch to the computer and wherein the script program executes and processes the computer object including information on installed software and *hardware* components to *determine whether to install the patch* on the computer based on attributes of the installation determined by the script program, as required by independent claims 1, 9, 17, and 25.

The Curtis Reference

Curtis teaches how to check for dependency objects and determine if the dependency objects needs to be installed *during* installation of a software program so that the software program can execute properly. Hence, Curtis does not determine if the software program should be installed, but rather determine what other dependent objects/programs should be installed of *when installing* the software program. In contrast, the claimed invention is about determining whether to install a patch and there is no limitation in the independent claims that a software program installation relies on the installation of the patch. Applicants respectfully submit that it is very different between determining if a program/patch should be installed and determining what other dependent objects that the program/patch is dependent upon. Therefore, Curtis teaches away from the claimed invention.

Application No.: 09/852070

Docket No.: SMQ-122RCE/P6281

Furthermore, the independent claims 1, 9, 17, and 25 requires that the script program executes and processes the computer object including information on installed software and *hardware* components to determine whether to install the patch on the computer. Curtis does not teach or suggest execution and process of information on *hardware* components to determine whether to install the software program or the dependency objects. Furthermore, Curtis does not teach or suggest *patch attribute statement*, wherein an attribute defined for the attribute statement is associated with the installation of the patch to the computer as required by independent claims 1, 9, 17, and 25. Curtis merely teaches a *check_dependency* function to check what dependency objects does the software program have during installation of the software program. However, Curtis does not teach or suggest an attribute defined for the attribute statement is associated with the installation of the patch to the computer.

Applicants respectfully submit that Donohue does not bridge the factual deficiency of Curtis.

The Donohue Reference

The Examiner states that the Curtis reference does not teach installation of a patch and cites the Donohue reference to bridge this factual deficiency. However, although the Donohue reference teaches installation of software updates, the Donohue reference does not teach or suggest execution and process of information on *hardware* components to determine whether to install a patch.

Donohue teaches how to efficiently distribute and acquire software updates. Donohue is not about how to determine whether to install a patch. Although Donohue teaches the use of update criteria, however update criteria is used to find the relevant update resource to download from a server. Nowhere does the Donohue reference teach or suggest *patch attribute statements*, wherein an attribute defined for the attribute statement is associated with the installation of the patch to the computer as required by independent claims 1, 9, 17, and 25.

Accordingly, the combination of Curtis and Donohue do not teach or suggest each and every element and limitation of independent claims 1, 9, 17, and 25. Applicants respectfully

Application No.: 09/852070

Docket No.: SMQ-122RCE/P6281

request that the Examiner reconsider and withdraw the rejection of claims 1, 9, 17, and 25, and their corresponding dependent claims.

Rejection of Claims 4, 6, 12, 14, 20, 22, 28, and 30

Claims 4, 6, 12, 14, 20, 22, 28, and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis in view of Donohue further in view of United States Patent No. 6,513,159 to Dodson (hereafter Dodson). Applicants respectfully submit that the combination of Curtis, Donohue, and Dodson do not teach or suggest each and every element and limitation of independent claims 1, 9, 17, and 25.

The Dodson Reference

Dodson teaches an automatic installation program that includes a system evaluator and a driver evaluator. However, similar to Curtis and Donohue, Dodson does not teach how to determine whether to install a patch, as required by independent claims 1, 9, 17, and 25. Furthermore, Dodson does not teach or suggest execution and process of information on *hardware* components to *determine whether to install a patch*, which is also required by independent claims 1, 9, 17, and 25. Additionally, Dodson does not teach or suggest *patch attribute statements*, wherein an attribute defined for the attribute statement is associated with the installation of the patch to the computer as required by independent claims 1, 9, 17, and 25.

Claims 4, 12, 20, and 28 further requires a patch incompatible statement that returns a list of patches that are incompatible with a patch and that *the patch would not be able to be installed on the computer if one or more incompatible patches are installed*. The Examiner asserts that Dodson teaches this limitation at Col. 3, lines 21-29. However, in the cited section, Dodson merely teaches a valid driver stack and does not teach any incompatible ones. Applicants respectfully submit that Dodson does not teach if installation of one or more specific driver would prevent a driver to be installed.

Accordingly, Applicants respectfully submit that the combination of Curtis, Donohue, and Dodson do not teach or suggest each and every element and limitation of claims 4, 6, 12, 14,

Application No.: 09/852070

Docket No.: SMQ-122RCE/P6281

20, 22, 28, and 30. Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 4, 6, 12, 14, 20, 22, 28, and 30.

Application No.: 09/852070

Docket No.: SMQ-122RCE/P6281

CONCLUSION

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Applicants believe no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. SMQ-122RCE from which the undersigned is authorized to draw.

Dated: January 18, 2006

Respectfully submitted,

By 

Kevin J. Canning

Registration No.: 35,470

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney For Applicant